

Assembly Bill No. 50

Passed the Assembly March 29, 2011

Chief Clerk of the Assembly

Passed the Senate March 24, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 17207.8 and 24347.10 of, and to add Sections 17131.10 and 18154 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 50, Hill. Income and corporation taxes: gross income: exclusion: capital gains: exclusion: disaster loss carryovers: San Bruno gas explosion.

The Personal Income Tax Law defines gross income as all income from whatever source derived, unless specifically excluded. Existing law, by reference to a specified federal statute, excludes from income any amount received by an individual as a qualified disaster relief payment, and defines qualified disaster for purposes of this provision.

This bill would require the natural gas transmission line explosion on September 9, 2010, in San Bruno, California, to be treated as a qualified disaster for purposes of the above-described provision.

The Personal Income Tax Law provides for a gain or loss upon the disposition of property. Existing law, by reference to a specified federal statute, excludes from the computation of gross income any gain from the compulsory or involuntary conversion of property damaged by a federally declared disaster, as provided.

This bill would require the natural gas transmission line explosion on September 9, 2010, in San Bruno, California, to be treated as a federally declared disaster for purposes of the above-described provision.

The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained in the County of San Mateo as a result of the explosion and fire that occurred in September 2010.

This bill would change an obsolete statutory reference in these laws.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 17131.10 is added to the Revenue and Taxation Code, to read:

17131.10. Notwithstanding any other law, for purposes of this part, the natural gas transmission line explosion on September 9, 2010, in San Bruno, California, shall be treated as a qualified disaster within the meaning of Section 139 of the Internal Revenue Code. This section shall apply to payments made on or after September 9, 2010.

SEC. 2. Section 17207.8 of the Revenue and Taxation Code is amended to read:

17207.8. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses sustained in the County of San Mateo as a result of the explosion and fire that occurred in September 2010.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276.20, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) This section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, “adjusted taxable income” shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 3. Section 18154 is added to the Revenue and Taxation Code, to read:

18154. Notwithstanding any other law, for purposes of this part, the natural gas transmission line explosion on September 9, 2010, in San Bruno, California, shall be treated as a federally declared disaster within the meaning of Section 1033 of the Internal Revenue Code.

SEC. 4. Section 24347.10 of the Revenue and Taxation Code is amended to read:

24347.10. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses sustained in the County of San Mateo as a result of the explosion and fire that occurred in September 2010.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 24416.20, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other

taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior taxable years to which that excess disaster loss is carried.

(c) “Excess disaster loss” means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) This section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Any corporation subject to Section 25101 or 25101.15 that has disaster losses pursuant to this section shall determine the excess disaster loss to be carried to other taxable years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Approved _____, 2011

Governor